

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

EUGENE LUMLEY, Individually and on Behalf  
of All Other Persons Similarly Situated,

Plaintiff,

-against-

UNITED STATES TRUST COMPANY, N.A.,  
BANK OF AMERICA, N.A., JOHN DOES #1-  
10, Jointly and severally,

Defendants.

No. 08 CV 3993 (TPG) (AJP)

**DECLARATION OF DIANA HYDE IN  
SUPPORT OF DEFENDANT'S  
OPPOSITION TO PLAINTIFF'S  
MOTION FOR APPROVAL OF  
COLLECTIVE ACTION NOTICE**

I, Diana Hyde, declare as follows:

1. I have personal knowledge of the matters contained in this declaration, except where such facts are stated to be based on information and belief, and those facts I believe to be true. I make this declaration in support of Bank of America, National Association's opposition to Plaintiff Eugene Lumley's Motion for Approval of Collective Action Notice. If called to testify to the matters set forth in this declaration, I could do so competently.

2. I am currently a Private Client Manager at Bank of America, National Association ("Bank of America"). Prior to my employment with Bank of America, I was employed by the United States Trust Company, N.A. ("U.S. Trust") where I held the officer title of First Level Officer ("FLO"). I understand that the Plaintiff in this case is seeking to represent other current and former Bank of America and U.S. Trust employees, including me. I know that I would be eligible to participate as a member of the class if this case is certified as requested by Plaintiff Eugene Lumley. I understand that the lawyers who interviewed me and assisted in preparing this declaration for me represent Bank of America and do not represent my personal interests. I am making this statement voluntarily and without coercion.

3. I started working at U.S. Trust in December 2002 as a Relationship Manager/Assistant Treasurer, which had a First Level Officer (“FLO”) officer title. I understand that U.S. Trust’s official records list my functional title as “Intermediate Private Banker.” After two years, I was promoted to Assistant Vice President (“AVP”) with a functional title of Senior Private Banker II. In 2006, I left U.S. Trust to work for a non-profit organization, but returned to U.S. Trust after a few months. Although my official functional title while I held the FLO officer title was Intermediate Private Banker, I understood my functional title to be Relationship Manager/Assistant Treasurer.

4. I have a bachelors’ degree in economics. I am also “credit trained”, meaning I attended a one year intensive class offered through the Bank of New York, which was a required credential for the Relationship Manager/Assistant Treasurer position. In addition, I have my Series 7 license.

5. While I was a FLO, I worked in a group with six other people – there were four other Relationship Manager/Assistant Treasurers, one manager, and two Private Banking Assistants, shared by the Relationship Managers.

6. As a Relationship Manager/Assistant Treasurer, I grew my client list based on referrals from existing clients.

7. My main duties involved satisfying the day-to-day needs of our clients and encouraging them to explore new products. I would meet with clients and offer various deposit or lending products I thought they might be interested in, such as checking, saving and money market accounts, CDs and loans. However, most of my focus is on loan products. In addition, I did a number of client-driven tasks, like authorizing wires, preparing documents for loans, and authorizing money transfers, wires and loans. For instance, if a client called in with a request for funds, I would tell the client about the structure of the account and advise the client on the possible options related to the structure of the account and what I thought might work best for the client’s needs. This would be based on my meetings with the clients and information I gathered from them about their needs, and the analysis I then performed.

8. I also worked on underwriting loans. To do so, I would analyze the client's financials and create a spreadsheet to ensure that the client met the necessary requirements. While U.S. Trust's credit procedures were outlined in the Credit Procedure Manual, there were occasionally situations that called for variations in the process. When these arose, I would handle as needed, with limited supervision by either my manager or the credit manager as required. Even within the credit procedures, I did a lot of analytical work – I would have to analyze the numbers to make sure that the loan fit within the bank's and the client's risk tolerance.

9. As a Relationship Manager/Assistant Treasurer, I did a lot of business development, trying to sell additional products to existing clients. I would analyze the balance sheets and large transaction reports for clients or check their deposits to see what products might earn them a higher interest rate, and then advise the client as to what I thought might best fit their needs.

10. I also sat on a company-wide committee that worked on streamlining the necessary documentation for opening accounts. There were six or seven members of this committee from around the company, most of whom were more senior than I was. I was nominated for this position and appreciated it as a good networking opportunity and a chance to get exposure to other parts of U.S. Trust.

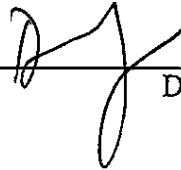
11. I worked on a variety of tasks because my work was so client driven and I had a lot of independent judgment. For example, I would structure all of the documents and transactions and my manager would only provide the required approvals.

12. I didn't receive any assignments from my manager and I decided my schedule and work hours based on the client needs. If there were pressing transactions or client needs, those would come first, but I also had to manage my own schedule to make sure that I stayed on top of my other work, like the underwriting and document preparation.

13. There were other individuals with the First Level Officer title working in my office, but, to my knowledge, they did not do similar tasks to me and the other Relationship Managers. For instance, the Private Banking Assistants in the office had the FLO officer title and they focused more on the process, taking care of transactional requirements like doing enhanced due diligence. From what I observed, their job duties were very different than the job duties I was performing.

I declare under penalty of perjury under that the foregoing is true and correct.

Executed at New York, New York, on August 12, 2008.

  
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Diana Hyde